

JAMES J. WEST LLC
105 North Front Street
Suite 205
Harrisburg, PA 17101
(717) 233-5051
(717) 234-7517

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, : No. 1:00-CR-119

:

: (Kane, J.)

:

LARNELL DEVON MORRISON, : (Electronically Filed)

:

MOTION FOR RELIEF UNDER 18 U.S.C. §3582(c)

AND NOW, comes Larnell Devon Morrison, by and through his counsel, James J. West, Esquire, and files this Motion for Relief under 18 U.S.C. §3582(c) requesting that his sentence be reduced to time served and, in support thereof, alleges as follows:

1. On April 12, 2000, Larnell Devon Morrison was indicted by a Grand Jury sitting in the Middle District of Pennsylvania and charged with various drug related offenses.
2. On June 20, 2000, present counsel entered his appearance and was substituted as counsel for Larnell Devon Morrison.
3. On October 11, 2000, a superceding indictment was handed down again charging Larnell Devon Morrison with various drug offenses.

4. On October 31, 2000, a plea agreement was filed as to Larnell Devon Morrison.

5. On November 9, 2000, the Defendant Larnell Devon Morrison appeared before Your Honor, waived indictment and entered a plea of guilty to a superceding information charging in one count that the Defendant possessed cocaine and crack cocaine with the intent to distribute in violation of 21 U.S.C. §841(a)(1).

6. This Court accepted the guilty plea and deferred sentencing pending preparation of the Presentence Report.

7. A Presentence Report was prepared and in the computation of the Defendant's sentence states as follows:

18. Base Offense Level: The guideline for a 21 USC § 841 offense is 2D1.1. Application Note 10 of that section provides that, when the offense involves two different controlled substances (in this case, crack cocaine and powder cocaine), each drug is to be converted into its marijuana equivalent and combined to achieve a single offense level. According to the Drug Equivalency Tables, 217.7 grams of crack cocaine (cocaine base) converts to 4,354 kilograms of marijuana and 117.7 grams of powder cocaine converts to 23.54 kilograms of marijuana, for a total of 4,377.54 kilograms of marijuana. The base offense level for the offenses involving at least 3,000 but less than 10,000 kilograms of marijuana is thirty-four.

34

19. Specific Offense Characteristics	<u>0</u>
20. Adjustment for Role in the Offense: None.	<u>0</u>
21. Victim-Related Adjustments: None.	<u>0</u>

22. Adjustment for Obstruction fo Justice: None 0

23. Adjusted Offense Level: 34

24. Adjustment for Acceptance of Responsibility: Based on the defendant's guilty plea, and his admissions to the Court and probation officer, a two-level reduction appears warranted. USSG § 3E1.1(a) -2

25. Because the defendant provided complete information to the Government concerning his involvement in the offense and timely notified authorities of his intention to enter a guilty plea, an additional one-level reduction is warranted. USSG § 3E1.1(b). -1

26. Total Offense Level: Thirty-One 31

27. Chapter Four Enhancements: None 0

28. Total Offense Level: Thirty-One 31

8. The total offense level of 31 under the then-applicable Guidelines with a Criminal History Category II resulted in an imprisonment range of 121 to 151 months.

9. On June 1, 2001, the sentencing was held before Your Honor and Larnell Devon Morrison was sentenced to imprisonment for 136 months the middle of the Guideline range computed in the Presentence Report. See Exhibit 1, copy of the Judgment and Commitment Order.

10. Larnell Devon Morrison has a projected release date of February 25, 2010.

11. In the United States Sentencing Guideline Manual effective November 1, 2007, the United States Sentencing Commission amended Part D covering offenses involving drugs and in Application Note 10(d) set forth a new table to be used when "the

offense involves cocaine base [“crack”] and one or more other controlled substances” so that under this new table 217.7 grams of crack cocaine would have a new marijuana equivalent of 6.7 kilograms of marijuana per gram or a total of 1,458.59 kilograms of marijuana (6.7 kilograms x 217.7 grams).

12. Applying the drug equivalency table found in Commentary 10(e) to the remaining 117.7 grams of powder cocaine at 200 grams of marijuana would total 23.54 kilograms (the same amount as in the original Presentence Report for powder cocaine) of marijuana for a total marijuana weight of 1,482.13 kilograms (1,458.59 + 23.54).

13. Under the new Sentencing Guideline covering Part D offenses involving drugs, 1,482.13 kilograms of marijuana would be an offense level 32 with 3 points off for acceptance of responsibility, the Defendant’s new base offense level would be a level 29.

14. The new base offense level of 29 at a Criminal History Category II results in an imprisonment range of 97 to 121 months. The exact middle of this range would be a sentence of 109 months, which would entitle the Defendant to a time-served sentenced representing a difference of 27 months.

15. The United States Sentencing Commission has announced that its decision to apply the amendments to the crack guidelines retroactively would be effective March 3, 2008.

16. Pursuant to 18 U.S.C. §3582(c)(2) “in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission *** upon motion of the defendant *** the

Court may reduce the term of imprisonment, after considering the factors set forth in Section 3553(a) to the extent that they are applicable ***."

17. Counsel respectfully requests that a time-served sentence be imposed on Larnell Devon Morrison.

18. The Defendant Larnell Devon Morrison waives any right he may have to personally appear before the Court for re-sentencing to a time-served sentence.

19. Assistant United States Attorney Behe has been contacted regarding this matter and indicates that he will be filing an Answer on behalf of the government pursuant to the policy of the United States Attorneys office.

Respectfully Submitted,

JAMES J WEST LLC

s/ James J. West

James J West
105 North Front Street, Suite 205
Harrisburg, PA 17101
(717) 233-5051
(717) 234-7517 - fax
jwest@jwestlaw.com

Dated: March 28, 2008

Counsel for Defendant